

- (d) the Registrar of Copyrights appointed under the repealed Act shall be deemed to be the Registrar for the purposes of this Act, until the expiry of his or her term of office or a Registrar is appointed under this Act, whichever is earlier; and
- (e) any penalty, forfeiture or punishment incurred

COPYRIGHT ACT, 2014

(Act 5 of 2014)

ARRANGEMENT OF SECTIONS

Sections

PART I PRELIMINARY

1. Short title and commencement
2. Application
3. Interpretation

PART II COPYRIGHTS

4. Works protected
5. Derivative works
6. Subject matters not protected
7. Economic rights
8. Moral rights
9. Private reproduction for personal purposes
10. Temporary reproduction
11. Quotation
12. Reproduction and other utilisation for teaching
13. Reproduction by libraries and archives
14. Reproduction, broadcasting and other communication to public for
informatory purposes
15. Reproduction and adaptation of computer programs
16. Visually impaired persons
17. Ephemeral recordings
18. Use for public security and for performance or reporting of
proceedings
19. Duration of copyright
20. Original ownership of economic rights
21. Presumption of authorship, producers of audio-visual works and
publications
22. Assignment and licensing of economic rights

PART III
PROTECTION OF PERFORMERS, PRODUCERS OF
PHONOGRAMS AND BROADCASTING ORGANISATIONS

23. Rights of performers
24. Rights of phonograms producers
25. Equitable remuneration for use of phonograms
26. Rights of broadcasting organisations
27. Limitations on protection

PART IV
VOLUNTARY REGISTRATION OF COPYRIGHTS

28. Voluntary registration of copyrights

PART V
ENFORCEMENT OF RIGHTS

29. Provisional measures
30. Civil remedies
31. Offences and penalties
32. Technological protection measures
33. Protection of rights management information
34. Prohibited acts deemed to be infringement of rights

PART VI
MISCELLANEOUS

35. Scope of application of copyrights
36. Scope of application of related rights
37. Regulations
38. Repeal and savings

headquarters of which are situated in
Seychelles and

- (b) broadcasts transmitted from transmitters
situated in Seychelles.

(4) Section 25(3) applies to program-carrying signals
the originating organisation of which is situated in Seychelles.

(5) The provisions in this Act shall also apply to
performers, producers of phonograms, broadcasting
organisations and originating organisations, as defined in
section 25(3), that are eligible for protection by virtue of and in
accordance with any international convention, treaty or other
agreement to which Seychelles is party.

37. The Minister may make regulations for carrying out
the provisions of this Act, which may include any matter which
is to be or may be prescribed under this Act.

38.(1) The Copyright Act (Cap 58) is hereby repealed.

(2) Notwithstanding the repeal of the Copyright Act, —

- (a) the copyrights registered under the
provisions of the repealed Act shall

COPYRIGHT ACT, 2014

(Act 5 of 2014)

AN ACT to consolidate and amend the law relating to
copyrights so as to give

2.(1) The provisions of this Act shall apply to works, performances, phonograms and broadcasts created before or after the commencement of this Act, provided that the period of protection had not expired under the laws of Seychelles or the laws of the country of origin of such works, performances, phonograms or broadcasts that are to be protected under an international treaty to which the Republic of Seychelles is a party.

(2) The provisions of this Act shall not affect

- (ii) have a limited commercially significant purpose or use other than to circumvent effective technological protection measures or
- (iii) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technological protection measures.

(2) Technological protection measures referred to in subsection (1), are “effective” where the use of a work or object of related right protected under this Act is controlled by the rights holder through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject-matter or a copy control mechanism which, in the normal course of its operation achieves the protection objective.

(3) Notwithstanding subsection (1), upon the request by the beneficiary of an exception or limitation in accordance with sections 2, 13, 15, 16, 17 or 18, the Registrar or the court, as the case may be, may order that the necessary means be made available to the extent required to benefit from it.

(4) The provisions of subsection (3) shall apply to works or other subject-matters made available to the public on agreed contractual terms in such a way that members of the public may access them from a place and at a time individually chosen by them.

work, a performance, a phonogram or a broadcast in such a way that it can be perceived by persons outside the normal circle of a family and its closest social acquaintances at a place or places so distant from the place where the transmission originates that, without the transmission, the work, performance, phonogram or broadcast would not be perceivable including the making available of the work or other protected subject-matter in such a way that members of the public may access it from a place and at a time individually chosen by them;

“computer” means an electronic or similar device having information-processing capabilities;

“computer program” is a set of instructions expressed in words, codes, schemes or in any other form, which is capable, when incorporated in a medium that the computer can read, of causing a computer to perform or achieve a particular task or result;

“distribution” means putting into public circulation the original or a copy of a work, a fixation of a performance or a phonogram in tangible form through sale or other transfer of ownership, including importing for the purpose of such putting into circulation and public offering for sale and other transfer of ownership;

“fixation” means the embodiment of sounds, images or both or of the representation thereof, from which they can be perceived, reproduced or communicated through a device;

“folklore” means all ancient literary, artistic or musical works created in Seychelles passed from generation to generation and constituting a basic element of the cultural heritage of Seychelles;

Protection of rights management information

33.(1) It is prohibited to—

- (a) remove or alter any electronic rights management information without the consent of the rights holder; or
- (b) distribute, import for distribution, broadcast or communicate to the public of works or

“infringement” means any act that violates any rights protected under this Act;

“Minister” means the Minister responsible for culture;

“owner of copyright” means—

- (i) where the economic rights are vested in the author, the author;
- (ii) where the economic rights are originally vested in a natural person other than the author or in a legal entity, that person or entity; or
- (iii) where the ownership of the economic rights has been transferred to a natural person or legal entity, that person or entity;

“performers” means singers, musicians and other persons who sing, deliver, declaim, play in, or otherwise perform literary and artistic

- (a) of damages for the prejudices suffered as a consequence of the act of infringement and
- (b) of expenses caused by the infringement, which may include legal costs.

(3) The amount of damages referred to under subsection (2)(a) shall be determined taking into account the economic and moral prejudices suffered by the owner of the rights.

(4) The court may, while determining damages under subsection (2)(a), order the recovery of profits from the infringer, even when the infringer did not know or had no reasonable grounds to know that he was engaged in infringing activity.

(5) Where goods have been found to be infringing copies, the court may, taking into account the need for proportionality between the seriousness of the infringement and the remedy, the legitimate interests of third party, order the destruction or other reasonable disposition of infringing copies and their packaging, without payment of compensation in such a manner as the court considers appropriate as to avoid any harm to the rights owner.

(6) The court may, taking into account the conditions set out in sub-section (2), order, without payment of compensation of any sort, the destruction or other reasonable disposition of materials and implements the predominant use of which has been the making of infringing copies, in such manner as the court considers appropriate, to minimise the risks of continuing or subsequent infringements.

(7) The court may, if it considers appropriate, order the infringer to inform the rights owner of the identity of third persons involved in the production and distribution of the infringing goods or rendering of services and of their channels

“producer” of an audio-visual work or a phonogram means the natural person or legal entity that undertakes the initiative and responsibility for the making of the audio-visual work or phonogram;

“public performance” means—

- (i) in the case of a work other than an audio-visual work, the recitation, playing, dancing, acting or otherwise performing the work, either directly or by means of any device or process;
- (ii) in the case of an audio-visual work, the showing of images in sequence and the making of accompanying sounds audible; or
- (iii) in the case of a phonogram, making the recorded sounds audible,

at a place or places where persons outside the normal circle of the family and its close acquaintances are or can be present;

“publication” and “published” in respect of a work, or a phonogram, is the making of tangible copies available to the public in a reasonable quantity for sale, rental, public lending or for other transfer of the ownership or the possession of the copies, provided that, in the case of a work, the making available to the public took place with the consent of the author or other owner of copyright, and in the case of a phonogram a fixation of a performance with the consent of the producer of the phonogram or his successor in title;

“Registrar” means the Registrar of Copyrights appointed under section 28(1);

“rental”

intangible, in which traditional culture and knowledge are expressed, appear or are manifested, and comprise the following forms of expression or combination thereof—

- (i) verbal expressions, such as stories, epics, legends, poetry, riddles and other narratives; words, signs, names and symbols;
- (ii) musical expressions, such as songs and instrumental music;
- (iii) expressions by action, such as dances, plays, ceremonies, rituals and other performances, whether or not reduced to a material form; or
- (iv) tangible expressions, such as productions of art, in particular, drawings, designs, paintings (including body-painting), carvings, sculptures, pottery, terracotta, mosaic, woodwork, metalware, jewelry, baskets, needlework, textiles, glassware, carpets, costumes, handicrafts, musical instruments, and architectural forms, which are—
 - (a) the products of creative intellectual activity, including individual and community creativity;
 - (b) characteristic of a community's cultural and social identity and cultural heritage; or
 - (c) maintained, used or developed by such community or by individuals having the right or responsibility to do so in accordance with the customary law and practices of that

“work” means any literary or artistic work under sections 4(1) and 5(1), but does not include folklore;

“work of applied art” means an artistic creation with utilitarian functions or incorporated in a useful article, whether made by hand or produced on an industrial scale;

“work of joint authorship” means a work to the creation of which two or more authors have contributed.

PART II COPYRIGHTS

4.(1) Literary and artistic works (hereinafter referred to as “works”) are original intellectual creations in the literary and artistic domain, including in particular—

- (a) books, pamphlets, articles and other writings;
- (b) speeches, lectures, addresses, sermons and other oral works;
- (c) dramatic, dramatico-musical works, pantomimes, choreographic works and other works created for stage productions;
- (d) musical works, with or without accompanying words;
- (e) audio-visual works;
- (f) works of architecture;
- (g) works of drawing, painting, sculpture, engraving, lithography, tapestry and other works of fine art;

- (d) cases where, under Part II, a work can be used without the authorisation of the author or other owner of copyright.

PART IV
VOLUNTARY REGISTRATION OF COPYRIGHTS

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- (h) photographic works;
- (i) works of applied art;
- (j) computer programs and
- (k) illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.

(2) Works shall be protected, when they are fixed or otherwise reduced to material form, irrespective of their mode or form of expression or their content, quality or purpose.

5.(1) The following shall also be protected as works—

- (a) translations, adaptations, arrangements and other transformations or modifications of works or traditional cultural expressions or expressions of folklore; and
- (b) collections of works, collections of data (databases), whether in machine-readable or other form, and collections of traditional cultural expressions or expressions of folklore, provided that such collections are original by reason of the selection or arrangement of their contents.

(2) The protection of a work referred to in subsection (1) shall be without prejudice to the protection of

mere data, even if expressed, described, explained, illustrated or embodied in a work;

- (b) news of the day or miscellaneous facts having the character of mere items of press information; or
- (c) political speeches and speeches delivered in the course of legal proceedings.

7.(1) The author or other owner of the copyright shall have the exclusive right to undertake or to authorise the following acts in relation to the work—

- (a) reproduction of the work;
- (b) translation of the work;
- (c) adaptation, arrangement or other transformation of the work;
- (d) distribution of the original or a copy of the work to the public;
- (e) rental of the original or a copy of an audio-visual work, a work embodied in a phonogram or a computer program;
- (f) public performance of the work;
- (g) broadcasting of the work; or
- (h) other communication to the public of the work.

(2) The right of distribution under subsection (1)(d) does not apply to the original or a copy of the work that has already been subject to a sale or other transfer of ownership in any country or territory, authorised by the owner of copyright.

has already been subject to a sale or other transfer of ownership in a country or territory, other than Seychelles, authorised by the producer

(3) The rights under subsection (1) shall be protected from the publication of the phonogram until the eITj S1 subject The a the

(3) The right of rental under subsection (1)(e) does not apply to rental of computer programs where the program itself is not the essential subject of the rental.

8.(1) The author of a work shall, independently of his or her economic rights, and even where he or she is no longer the owner of the said rights, have the following moral rights—

- (a) to have his or her name indicated prominently on the copies and in connection with any public use of his work, as far as practicable;
- (b) to not have his or her name indicated on the copies and in connection with any public use of his or her work or the right;
- (c) to use a pseudonym and
- (d) to object to any distortion, mutilation or other modification of, or other derogatory action in relation to his or her work which would be prejudicial to his or her honor or reputation.

(2) The rights mentioned in subsection (1) shall not be transferable during the life of the author, but the right to exercise any of such rights may be transferred by testamentary disposition or by operation of law following the death of the author

(3) The author may waive any of the moral rights mentioned in subsection (1) provided that such a waiver is in writing and clearly specifies the right or rights waived and the circumstances in which the waiver applies.

(4) The author, while exercising the waiver of the right

(5) Upon the death

appear on the work shall, in the absence of proof to the contrary be presumed to represent the author and, in this capacity shall be treated as if it were a work of the author. This shall not apply to the extent that it is necessary for the economic or technical development of the work to which it relates to be reproduced in a work of a higher quality than that of the original work.

(b) it is caused by a person or entity that, by way of authorisation by the owner of copyright, transmits or makes perceptible of the work; and

(a) making perceptible, that occurs during the normal operation of the equipment used and entails the automatic deletion of the copy without enabling the retrieval of the work for any other purpose than those referred to in paragraph (a) and (b).

11.(1) The quotation from a work that has lawfully been made available to the public shall be permitted without authorisation of the author or other owner of copyright, provided that the quotation is compatible with fair practice and does not exceed the extent justified by the purpose.

(2) The quotation shall be accompanied by an indication of source and the name of the author, if the name appears in the source from which the quotation is taken.

12.(1) The following acts shall be permitted without authorisation of the author or other owner of copyright—

- (a) the utilisation by way of illustration for the purposes of teaching or scientific research of a work that has lawfully been made available to the public, in publications, broadcasting or sound or visual recordings, provided that such utilisation is compatible with fair practice and does not exceed the extent justified by the purpose;
- (b) the utilisation by way of making available of such works in computer networks, provided that access to the works is only available to enrolled pupils or students and their teachers;

- (c) the reprographic reproduction, for face-to-face teaching in educational institutions the activities of which do not serve direct or indirect commercial gain, of

18. A work may be used for the purposes of public security and to ensure the proper performance or reporting of administrative, parliamentary or judicial proceedings.

19.(1) The economic and moral rights shall be protected during the life of the author and for fifty years after his or her death.

(2) In the case of a work of joint authorship, the economic and moral rights shall be protected during the life of the last surviving author and for fifty years after his or her death.

(3) In the case of an audio-visual work, the economic and moral rights shall be protected for fifty years from the date on which the work was made or first made available to the public by publication or by any other means, whichever date is the latest.

(4) In the case of a work published anonymously or under a pseudonym, the economic and moral rights shall be protected for fifty years from the date on which the work was made or first made available to the public, by publication or by any other means, whichever date is the latest, provided that where the identity of the author is revealed or is no longer in doubt before the expiration of the said period, the provisions of subsection (1) or subsection (2), as the case may be, shall apply.

(5) In the case of a work of applied art, the economic and moral rights shall be protected for twenty-five years from the making of the work.

(6) The period provided for under subsection (1) to (5) shall run to the end of the calendar year in which it would otherwise expire.

20.(1) Subject to the provisions of subsections (2) to (6), the original owner of economic rights in respect of a work is the author who has created the work.

(i) the library or archive is satisfied that the copy will be used solely for the purposes of study, scholarship or private research;

(ii) the reproduction of any particular work is an isolated act occurring, if repeated, on separate and unrelated occasions; and

(iii) there is no collective license available offered by a collective copyright management organisation under which such copies can be made; or for part of a work that is to say one volume of work;

(b) where the copy is made in order to preserve and, if necessary, replace a copy, or to replace a copy which has been lost, destroyed, or rendered unusable in the permanent collection of another similar library or archive, provided that it is impossible to obtain such a copy under reasonable conditions, and the reproduction of such particular work is an isolated act occurring, if repeated, on separate and unrelated occasions.

14. The following acts shall be permitted in respect of a work without the authorisation of the author or other owner of copyright, subject to the obligation to indicate the source and the name of the author as far as practicable—

(a) the reproduction in a newspaper or periodical, the broadcasting or other communication to the public, of an article published in a newspaper or periodical on current economic, political or religious topics or a broadcast work of the same character; this permission shall not apply where the right to authorize reproduction,

broadcasting or other communication to the public is expressly reserved on the copies by the author or other owner of copyright, in connection with broadcasting or other communication to the public of the work;

- (b) for the purpose of reporting current events, the reproduction and the broadcasting or other communication to the public of short excerpts of a work seen or heard in the course of such events, to the extent justified by the purpose or
- (c) the reproduction in a newspaper or periodical, the broadcasting or other communication to the public of a lecture, address, sermon or other work of a similar nature delivered in public, to the extent justified by the purpose of providing current information.

Reproduction and adaptation of computer programs

15.(1) The reproduction in a single copy, or the adaptation of a computer program by the lawful owner of a copy of that computer program shall be permitted without the authorisation of the author or other owner of copyright, provided that the copy or adaptation is necessary—

- (a) for use of the computer program with a computer for the purpose and extent for which the computer program has been obtained or
- (b) for archival purposes and for the replacement of the lawfully owned copy of the computer program in the event that the said copy of the computer program is lost, destroyed or rendered unusable.

(2) No copy or adaptation of a computer program shall be used for any purpose other than those specified in subsection (1), and any such copy or adaptation shall be destroyed in the event that continued possession of the copy of the computer program ceases to be lawful.

16.(1) It shall be permitted without the authorisation of the author or other owner of copyright to reproduce a published work for visually impaired persons in an alternative manner or form which enables their perception of the work, and to distribute the copies exclusively to such persons provided that the work is not reasonably available in an identical or largely equivalent form enabling its perception by the visually impaired and the reproduction and distribution are made on a non-profit basis.

Visually impaired persons

(2) The distribution of work referred to in subsection (1) is also permitted in case the copies of such work have been made abroad and the conditions mentioned in that subsection have been fulfilled.

(3) The provisions in subsections (1) and (2) are subject to the obligation to indicate the source and the name of the author

17.(1) A broadcasting organisation may make, without the authorisation of the author or other owner of copyright, for the purpose of its own broadcasts and by means of its own facilities, an ephemeral recording of any work which it is authorised to broadcast.

Ephemeral recordings

(2) All copies referred to in subsection (1) shall be destroyed within six months of their making or within any longer term agreed to by the author

(3) Where the recording of a work referred to in subsection (1) has an exceptional documentary character a copy of such recording may be preserved in official archives.